

Dave Heineman
Governor

STATE OF NEBRASKA

NEBRASKA LIQUOR CONTROL COMMISSION

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November 30, 2011

Governor Dave Heineman
and Senators of the Legislature
STATE CAPITOL BUILDING
Lincoln NE 68509

Dear Governor Dave Heineman
and Senators of the Legislature,

Pursuant to Neb. Rev. Stat. §53-117(9) it is the duty of the Nebraska Liquor Control Commission "to investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to Governor and through him or her to the Legislature amendments to the Act". The following are our recommendations. Although listed numerically, we believe them to be equally important to further the health, safety, and welfare of the people of Nebraska through the regulations of alcoholic beverages.

1) **IMPORTATION WAIVER**

The Commission has received many requests to examine the prohibition of importing in excess of 9 liters when the product is part of a personal collection. Most often the queries come from military service personnel being assigned to Nebraska or returning home to Nebraska from overseas. As such they pass through the port of Omaha. The Commission believes that a personal collection waiver should be allowed, so long as the proper Nebraska excise tax is paid.

2) **EXCISE TAXES**

A review of the state excise taxes to insure that they are correct and comparable to the surrounding region. A special examination needs to be conducted in reviewing the state excise tax on farm wineries.

An issue has arisen as to the point that the excise tax attaches to products manufactured by Brewpubs, Microbreweries, Farm Wineries, and Micro Distillers. We believe that the tax should attach upon the product leaving the bonded portion of the licensed premise. This would make the attachment of the tax consistent with the Federal Government tax assessment.

Janice M. Wiebusch
Commissioner

Robert Batt
Chairman

William F. Austin
Commissioner

3) LAW ENFORCEMENT FUNDING/MANPOWER

The recent budget cuts have resulted in less officers at both the state and local levels assigned to alcohol enforcement as their primary job duty. The Commission believes that a set percentage of the state excise tax on alcohol should be set aside to fully fund state alcohol enforcement efforts. In the alternative, additional direct General Funding of Nebraska State Patrol Liquor Investigators or of Nebraska Liquor Control Commission inspectors should be considered.

4) ALCOHOL IMPACT ZONES

Many jurisdictions utilize Alcohol Impact Zones to minimize problems with chronic public inebriation or illegal activities linked to the sale or consumption of alcohol within a geographic area of a city or town. The Commission believed that a statute granting it the authority to create said zones would benefit the public's health, safety and welfare.

BREW PUBS/MICROBREWERIES CAPACITY LIMITATIONS

- 5) The gallonage cap on the Microbreweries and brewpubs should be increased. Currently, the cap is 10,000 barrels. That cap is the same as when the law was first drafted in 1988. There are current brewpubs and microbreweries approaching that production level. We believe that the cap should be increased to 20,000 barrels so that these licenses may be able to compete in the changing marketplace.

6) FLAVORED MALT BEVERAGES

The appropriate classification and taxation on these products is currently at issue before the Nebraska Supreme Court. While we believe that the Commission has broad authority to classify the beverages and we did do so, the legislature may want to weigh in on the subject for policy reasons.

7) MANDATORY SERVER TRAINING

The Commission believes that Mandatory Server Training of employees of licensees should be enacted. Having all employees involved in the sale or serving of alcohol and complete a certified course would be a benefit to the overall safety and welfare of the general public.

8) MINIMUM PRICING

The Commission has discovered an alarming trend as retail licensees have been using alcoholic products as "loss leaders", that is, selling the product below their cost of purchase. This deep discounting of alcohol has the negative consequence of promoting over consumption. The Commission believes that a statute setting the retail price as no lower than the wholesale price would address this trend.

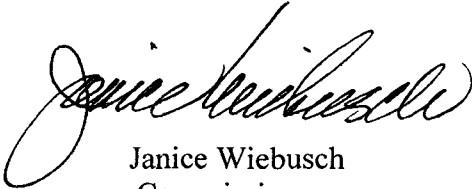
9) LARGE SPECIAL DESIGNATED LICENSE EVENTS

The Commission is aware of recent controversies involving pavilion tents and Third Party (non-licensee) activities at large events (over 10,000 people), such as the College World Series. The Commission believes that a "Festival" type of Special Designated License at these events with added oversight by the Commission may address these issues.

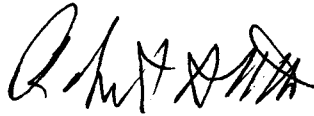
Thank you for your consideration of our recommendations. We will work with you on the drafting of language or provide you with any further information that is requested.

Sincerely,

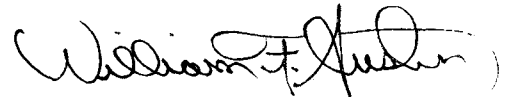
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